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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 2154 OF 2023

Mahesh Parshuram Ghubde And Another

....Applicants

VERSUS

The State Of Maharashtra

.....Respondent

Mr. Anirudh R. Hange, Advocate for Applicants
Mrs. P.J. Bharad, APP for respondent.

With

BAIL APPLICATION NO. 2113 OF 2023

Prasad Ramakant Sherkar

... Applicant

Versus

The State Of Maharashtra

.....Respondent

Mr. Siddheshwar S. Thombre, Advocate for Applicants
Mrs. P.J. Bharad, APP for respondent.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 12th DECEMBER, 2023

ORDER :-

1. The applicants are seeking regular bail in connection with Crime No. 577 of 2023 registered with Shivaji Nagar Police Station, Beed, Dist. Beed for the offences punishable under Sections 307, 308, 120B, 353, 332, 427, 435, 436, 143, 144, 145, 147, 148, 149, 151, 152 of IPC and U/sec. 3(1), 37(3) and 135 of the Maharashtra Police Act and under Section 3 and 4 of the Prevention of Damage to Public Property Act, 1984.

2. The investigation was set in motion on the basis of information given by Mr. Chetan Vasantrao Ogale, Police Inspector at Shivaji Nagar Police Station, Beed. In nutshell, it is alleged that on 30th October, 2023, he was on

duty alongwith other police officers. At about 7.30 p.m., he received information from the Police Inspector Rathod that a mob consisting of 1000 to 1500 persons has been gathered nearby the house of sitting MLA situated at Nagar Road. The members of the unlawful assembly are holding stones, sticks, wooden logs, iron rods, bottles containing petrol. Accordingly, the informant reached to the spot. The mob was raising slogans in pursuance of their demand for reservation. The police warned them that their assembly is illegal. However, the mob became violent. The Police officers took preventive measures. By that time some of the members of the mob entered in the bungalow of MLA and set ablaze the vehicles parked therein. Thereafter, the police officers raised counter attack in the form of Lathi Charge and fired rubber bullets and dispersed the mob. It is alleged that some accused persons have been arrested on the spot. Further part of the FIR relates to the subsequent incident which is not relevant for the purpose of present application.

3. The applicants have been arrested in pursuance of the aforesaid crime on 31st October, 2023. Since then, they are behind bars. Their prayer for grant of bail has been rejected by the Court of Sessions.

4. Mr. Rajendra Hange, learned advocate for the applicants in BA No. 2153 of 2023 and Mr. Siddheshwar Thombre learned advocate for applicants in B.A. No. 2113 of 2023, would submit that the applicants have been falsely implicated in the aforesaid crime. Although the allegations in the FIR states that applicants were nabbed on the spot, no specifications regarding their role in commission of offence is narrated in FIR. In fact, the persons who have caused damage to the property ran away from the spot. The applicants are made scapegoats.

5. The learned APP strongly opposes the application. She would submit that the applicants are arrested on the spot. They were members of unlawful assembly which turned violent and caused damage to the property.

6. Having considered the submissions advanced, and after taking into account the contents of the FIR it appears that the applicants have been arrested on the spot. The narration in the FIR states that the mob of about 1000 to 1500 persons had gathered on the spot in pursuance of the demand for reservation. The contents of the FIR nowhere specifies actual role of the applicants in commission of the offence. Whether the applicants were in fact members of the unlawful assembly, whether they can be held responsible for the acts committed by unlawful, would be a matter of trial. The applicants are behind bars since 31.10.2023. Although they were remanded to police custody, nothing incriminating could be recovered from them. The investigation in the matter is practically at advanced stage. Further detention of the applicants would not be necessary. No criminal antecedents are brought on record to discredit applicants. Hence, a case is made out for grant of bail, subject to certain conditions.

: O R D E R :

- (I) The application is allowed.
- (ii) Applicants in BA No. 2154 of 2023 – (1) Mahesh S/o. Parshuram Ghubde and (2) Balu s/o. Anurath Ghubde and applicant in BA No. 2113 of 2023 – Prasad Ramakant Sherkar, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- each, with one solvent surety of the like amount each, in connection with Crime No. 577 of 2023 registered with Shivaji Nagar Police Station, Beed, Dist. Beed for the offences punishable under Sections 307, 308, 332, 120B, 353, 427, 435, 436, 143, 144, 145, 147, 148, 149, 151, 152 of IPC and U/sec. 3(1), 37(3) and 135 of the Maharashtra Police Act and under Section 3 and 4 of the Prevention of Damage to Public Property Act, 1984. on the following conditions :-
 - (a) They shall not tamper with the prosecution witnesses.
 - (b) They shall attend the police station once in a week i.e. on every Saturday between 10.00 a.m. and 2.00 p.m. till filing of charge sheet.

- (c) They shall not indulge in criminal activities.
- (d) They shall attend each and every effective date before the trial Court.
- (iii) Both the applications stand disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-